

## REMARKS

Applicants submit this response to the Office Action dated January 31, 2005. Claims 15-18 are pending. Applicants acknowledge the withdrawal of the previous rejections of claims 12-14 and 22, under 35 U.S.C. § 112, first paragraph, and 35 U.S.C. § 102(e), and of claims 15 and 16 under 35 U.S.C. § 112, first paragraph.

Claims 15-18 are rejected under 35 U.S.C. § 102(e) over Agarwal (U.S. application no. 20010012628 A1), published August 9, 2001, earliest priority date November 5, 1999. Reconsideration and withdrawal of this rejection are respectfully requested.

Applicants submit herewith a Declaration under 37 C.F.R. § 131 of Dr. W. Michael Kavanaugh, attesting to the invention of the claimed subject matter prior to November 5, 1999. As indicated in Exhibit 2 of the Declaration, applicants were in possession of the polypeptide of SEQ ID NO:4 prior to November 5, 1999.

Applicants appreciate the Examiner's indication that the polypeptides of SEQ ID NO:7 and 8, and the full-length polypeptide of SEQ ID NO:4, are free of the art.

In view of the Declaration filed herewith, applicants submit that all pending claims are free of the cited art.

All of the claims remaining in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650.

Respectfully submitted,  
Nobuyuki Itoh et al.  
DAVIS WRIGHT TREMAINE LLP

By   
Jane E. R. Potter  
Registration No. 33,332

2600 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101-1688  
Phone: (206) 628-7650  
Facsimile: (206) 628-7699